

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

PATRICIA R. LASATER,

Plaintiff,

vs.

No. CV 09-0429 WDS

**MICHAEL J. ASTRUE,
Commissioner of Social Security,**

Defendant.

AGREED ORDER AWARDING ATTORNEY FEES AND COSTS UNDER EAJA

THIS MATTER having come before the Court upon Plaintiff's Motion for Attorney Fees and Costs under Equal Access to Justice Act (Doc. No. 29), and Defendant having no objection to the Motion (Response, Doc. No. 30), the Court FINDS that the Motion for Attorney Fees and Costs should be granted.

IT IS THEREFORE ORDERED that attorney fees and costs be, and hereby are, awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), payable to Plaintiff in the amount of \$4,543.90 for fees and \$367.30 for costs. *See Astrue v. Ratliff*, 130 U.S. 2521 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED THAT, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel

shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

DATED this 12th day of October 2010.



W. Daniel Schneider
United States Magistrate Judge

SUBMITTED BY:

s/ Francesca J. MacDowell
FRANCESCA MacDOWELL
Attorney for Plaintiff

approved by:
MANUEL LUCERO
Assistant United States Attorney
Attorney for Defendant